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HOUSE BILL 474

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

William "Ed" Boykin

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO TAXATION; ENACTING SECTIONS OF THE INCOME TAX ACT  
AND CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE A CREDIT  
FOR GROSS RECEIPTS TAX PAID ON RECEIPTS FROM THE PROVISION OF  
CERTAIN MEDICAL AND OTHER HEALTH SERVICES BY PHYSICIANS;  
AMENDING HEALTH WORKFORCE PROVISIONS; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted  
to read:

"NEW MATERIAL CREDIT--PHYSICIANS--GROSS RECEIPTS TAX  
PAID ON RECEIPTS FROM THE PROVISION OF MEDICAL AND OTHER HEALTH  
SERVICES--REFUND. --

A. A physician who files an individual New Mexico  
income tax return may claim a credit for state and local option  
gross receipts taxes paid in the taxable year for which the

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1 credit is claimed on receipts of the taxpayer from the  
2 provision of medical and other health services provided in  
3 those areas of New Mexico eligible to be served by the New  
4 Mexico health service corps, pursuant to the Health Service  
5 Corps Act, or on receipts of a pass-through business entity of  
6 which the taxpayer is an owner from the provision by physicians  
7 of medical and other health services in an underserved area.  
8 If the taxes were paid by a pass-through business entity of  
9 which the taxpayer is an owner, the amount of the gross  
10 receipts taxes paid by the taxpayer shall be determined to be  
11 the taxes paid on that portion of the taxable gross receipts of  
12 the pass-through business entity from the provision of medical  
13 and other health services by physicians that represents the  
14 taxpayer's proportionate ownership share of the pass-through  
15 business entity.

16 B. The credit provided by this section may only be  
17 deducted from the taxpayer's New Mexico income tax liability  
18 for the taxable year. Any portion of the tax credit provided  
19 by this section that remains unused at the end of the  
20 taxpayer's taxable year may be carried forward for three  
21 consecutive taxable years.

22 C. As used in this section:

23 (1) "owner" means a partner in a partnership  
24 not taxed as a corporation for federal income tax purposes for  
25 the taxable year, a shareholder of an S corporation or of a

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1 corporation other than an S corporation that is not taxed as a  
2 corporation for federal income tax purposes for the taxable  
3 year, a member of a limited liability company or any similar  
4 person holding an ownership interest in a pass-through business  
5 entity;

6 (2) "pass-through business entity" means any  
7 business association other than:

8 (a) a sole proprietorship;

9 (b) an estate or trust; or

10 (c) a corporation, limited liability  
11 company, partnership or other entity not a sole proprietorship  
12 taxed as a corporation for federal income tax purposes for the  
13 taxable year;

14 (3) "physician" means a medical doctor  
15 licensed as a physician to practice medicine pursuant to the  
16 provisions of the Medical Practice Act or a person licensed as  
17 an osteopathic physician pursuant to the provisions of Chapter  
18 61, Article 10 NMSA 1978; and

19 (4) "underserved area" means an area of New  
20 Mexico eligible to be served by the New Mexico health service  
21 corps. "

22 Section 2. A new section of the Income Tax Act is enacted  
23 to read:

24 "[NEW MATERIAL] EXEMPTION--INCOME FOR CERTAIN HEALTH CARE  
25 PROVIDERS.--Stipend income received by a physician from the New

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1 Mexico health service corps pursuant to the Health Service  
2 Corps Act and income and awards received pursuant to the Health  
3 Professional Loan Repayment Act are exempt from state income  
4 tax. "

5 Section 3. A new section of the Corporate Income and  
6 Franchise Tax Act is enacted to read:

7 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX PAID ON  
8 RECEIPTS FROM MEDICAL AND HEALTH SERVICES PROVIDED BY  
9 PHYSICIANS-- REFUND. --

10 A. A taxpayer that files a corporate income tax  
11 return may claim a credit for state and local option gross  
12 receipts taxes paid in the taxable year for which the credit is  
13 being claimed on receipts of the taxpayer from the provision of  
14 medical and other health services by physicians in an  
15 underserved area.

16 B. The credit provided by this section may only be  
17 deducted from the taxpayer's corporate income tax liability for  
18 the taxable year. Any portion of the tax credit provided by  
19 this section that remains unused at the end of the taxpayer's  
20 taxable year may be carried forward for three consecutive  
21 taxable years.

22 C. As used in this section, "physician" means a  
23 medical doctor licensed as a physician to practice medicine  
24 pursuant to the provisions of the Medical Practice Act or a  
25 person licensed as an osteopathic physician pursuant to the

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1 provisions of Chapter 61, Article 10 NMSA 1978.

2 D. As used in this section, "underserved area"  
3 means an area of New Mexico eligible to be served by the New  
4 Mexico health service corps. "

5 Section 4. Section 21-1-26.8 NMSA 1978 (being Laws 1995,  
6 Chapter 144, Section 1) is amended to read:

7 "21-1-26.8. HEALTH PROFESSION ADVISORY COMMITTEE--  
8 CREATED--DUTIES.--

9 A. The "health profession advisory committee" is  
10 created to advise the commission on higher education on matters  
11 relating to the administration of student loan programs for  
12 health professionals. [~~The health profession advisory  
13 committee replaces the medical shortage area committee.~~]

14 B. The health profession advisory committee shall  
15 be composed of a representative of the department of health; a  
16 representative of the New Mexico health policy commission; and  
17 representatives of public post-secondary health and medical  
18 training programs, underserved health and medical area  
19 providers, recruiting and placement organizations and  
20 professional health and medical associations. Members shall be  
21 appointed by the commission on higher education pursuant to the  
22 policies and procedures of the commission.

23 C. The health profession advisory committee shall:

24 (1) designate health professional shortage  
25 areas and acute shortage areas of the state;

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1                                    (2) designate those fields of specialization  
2 within the practice of medicine in which the state is  
3 experiencing an acute shortage;

4                                    [~~(2)~~] (3) make recommendations to the  
5 commission on higher education on applicants for medical,  
6 osteopathic, nursing and allied health loan for service  
7 programs and loan repayment programs; and

8                                    [~~(3)~~] (4) give advice or other assistance to  
9 the commission as requested. "

10                                    Section 5. Section 21-22D-3 NMSA 1978 (being Laws 1995,  
11 Chapter 144, Section 18) is amended to read:

12                                    "21-22D-3. DEFINITIONS.--As used in the Health  
13 Professional Loan Repayment Act:

14                                    A. "commission" means the commission on higher  
15 education;

16                                    B. "health professional" means a [~~primary care~~]  
17 physician, optometrist, podiatrist, physician's assistant,  
18 dentist, nurse, member of an allied health profession as  
19 defined in the Allied Health Student Loan for Service Act or a  
20 licensed or certified health professional as determined by the  
21 commission; and

22                                    C. "loan" means a grant of money to defray the  
23 costs incidental to a health education, under a contract  
24 between the federal government or a commercial lender and a  
25 health professional, requiring either repayment of principal

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1 and interest or repayment in services. "

2 Section 6. Section 21-22D-4 NMSA 1978 (being Laws 1995,  
3 Chapter 144, Section 19) is amended to read:

4 "21-22D-4. COMMISSION POWERS AND DUTIES-- PARTICIPANT  
5 ELIGIBILITY-- QUALIFICATIONS. --

6 A. The commission may grant an award to repay loans  
7 obtained for health [~~educational~~] education expenses of a  
8 health professional upon such terms and conditions as may be  
9 imposed by regulations of the commission.

10 B. Applicants shall be licensed or certified to  
11 practice in New Mexico as health professionals and shall be  
12 bona fide citizens and residents of the United States and of  
13 New Mexico. Applicants shall declare their intent to practice  
14 as health professionals within designated health professional  
15 shortage areas and acute shortage areas of the state.

16 C. The commission shall make a full and careful  
17 investigation of the ability, character and qualifications of  
18 each applicant and determine fitness to become a health  
19 professional in the health professional loan repayment program.

20 D. The commission shall assist selected health  
21 professionals in locating practice positions in designated  
22 health professional shortage areas and acute shortage areas. "

23 Section 7. APPROPRIATIONS-- HEALTH PROFESSIONAL  
24 RECRUITMENT. --

25 A. Five hundred thousand dollars (\$500,000) is

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1 appropriated from the general fund to the health professional  
2 loan repayment fund for expenditure in fiscal year 2005 and  
3 subsequent fiscal years for the purpose of making loans  
4 pursuant to the Health Professional Loan Repayment Act. Any  
5 unexpended or unencumbered balance remaining at the end of a  
6 fiscal year shall not revert to the general fund.

7 B. Seven hundred fifty thousand dollars (\$750,000)  
8 is appropriated from the general fund to the department of  
9 health for expenditure in fiscal year 2005 to contract for  
10 expanded recruitment of physicians, dentists, physician  
11 assistants, nurse practitioners, certified nurse midwives,  
12 nurses and clinical nurse specialists for employment statewide  
13 by or through state agencies. Any unexpended or unencumbered  
14 balance remaining at the end of fiscal year 2005 shall revert  
15 to the general fund.

16 Section 8. APPLICABILITY. --The provisions of this act  
17 apply to taxable years beginning on or after January 1, 2004.